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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,084	05/31/2001	Jurgen Niessen	P01,0182	9132

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EXAMINER	
CORRIELUS, JEAN M	
ART UNIT	**PAPER NUMBER**
2162	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/857,084	JURGEN NIESSEN ET AL.,	
	Examiner	Art Unit	
	Jean M Corrielus	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response the amendment filed on September 28, 2004, in which claims 1-10 for further examination.

Response to Arguments

2. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Note

3. Applicants asserted that paragraph 17 of the substitute specification describes the features illustrated in Fig.1 and paragraph 27-30 illustrated in Fig.2 show every feature of the invention specified in the claims. The examiner disagrees with the precedent assertion. Fig1 and Fig.2 fail to show the features of claims 1-10. Applicants are advised to show where in the drawings the features of claims 1-10.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features ***"storing, in a database of said computer system, for the system function monitored for availability, respective information which describes conditions under which said availability of the system function are to be assessed as existing or no longer existing "; and "utilizing said information, when a change in a state of a component of said computer system has taken place or is intended to***

take place, to assess whether said change that has taken place results, or said change that is intended to take place would result, in a change in terms of the availability of the system function" in claim 1; *"utilizing said marked component mappers, when a change in a state of a component has taken place or is intended, to assess whether said change in state that has taken place results, or said intended change in state would result, in a change in said availability of the system function"* in claim 2; *"recording, by said database, for each computer system component, whether said component contributes to said availability of the system function monitored for availability, and, if so, for which system function or system functions said component contributes to said availability, and assessing, when a change in a state of a component of said computer system has taken place or is intended, using data stored in said database for other computer system components to assess whether said availability of the system function monitored for availability changes or would change as a result of such a change"* in claim 3; *"assessing, when a change in a component state has taken place or is intended, whether said change results or would result in a change in availability of said system function"* in claim 4; *"storing, by said database stores, for each system function regarded as being relevant to availability, information which describes conditions under which said availability of a system function is to be assessed as existing or no longer existing"* in claim 5; *"a database; and system components wherein, when a change in a state of one of said components of said computer system has taken place or is intended, said computer system assessing, using information stored in said database, whether said change in state changes or*

would change an availability of a system function, said database, for this purpose, indicating for each data map for a component whether a mapped component contributes to said availability of a system function, and, if so, to which system function or system functions contribute to said availability of a system function" in claim 6; ***"said availability monitoring component additionally makes said assessment based on particular conditions which are stored in said database for each system function regarded as being relevant to availability"*** in claim 7, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1 and 6 recite "a database; and system components wherein, when a change in a state of one of said components of said computer system has taken place or is intended, said computer system assessing, using information stored in said database, whether said change in state changes or would change an availability of a system function, said database, for this purpose, indicating for each data map for a component whether a mapped component contributes to said availability of a system function, and, if so, to which system function or system functions contribute to said availability of a system function";

Claim 2 recites "utilizing said marked component mappers, when a change in a state of a component has taken place or is intended, to assess whether said change in state that has taken

place results, or said intended change in state would result, in a change in said availability of the system function";

Claim 3 recites "recording, by said database, for each computer system component, whether said component contributes to said availability of the system function monitored for availability, and, if so, for which system function or system functions said component contributes to said availability, and assessing, when a change in a state of a component of said computer system has taken place or is intended, using data stored in said database for other computer system components to assess whether said availability of the system function monitored for availability changes or would change as a result of such a change";

Claim 4 recites "assessing, when a change in a component state has taken place or is intended, whether said change results or would result in a change in availability of said system function";

Claim 5 recites "storing, by said database stores, for each system function regarded as being relevant to availability, information which describes conditions under which said availability of a system function is to be assessed as existing or no longer existing";

Claim 6 recites "a database; and system components wherein, when a change in a state of one of said components of said computer system has taken place or is intended, said computer system assessing, using information stored in said database, whether said change in state changes or would change an availability of a system function, said database, for this purpose, indicating for each data map for a component whether a mapped component contributes to said availability of a

system function, and, if so, to which system function or system functions contribute to said availability of a system function"; and

Claim 7; "said availability monitoring component additionally makes said assessment based on particular conditions which are stored in said database for each system function regarded as being relevant to availability". These limitations of the claims are not supported by the Specification. The specification is not enable one having ordinary skill in the art how to perform the recited claimed features set forth above. Applicants are advised to amend the specification or cancel the limitations from the claims. Applicants are reminded that no new matter should be added.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-10 as best understood by the examiner are rejected under 35 U.S.C. 102(b) as being anticipated by Perholtz et al., (hereinafter "Perkoltz") US Patent no. 5,566,339.

As to claim 1, Perkoltz discloses the claimed "storing in a database of said computer system, for a system function monitored for availability, respective information which described conditions under which said availability of a system function are to be assessed as existing or no longer existing" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines

50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64); and "utilizing said information, when a change in a state of a component of said computer system has taken place, to assess whether said change that has taken place results, or said change that is intended to take place would result, in a change in terms of the availability of said system function" detecting the change and the status that effects availability (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 2, Perkoltz discloses the claimed "marking in a database of said system, component mappers for components which contribute to said availability of said system function" nodes, clusters and packages (software, or mapper) are collectively referred to as monitored entities (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64); and "utilizing said marked component mappers when a change in a state of a component has taken place or is intended to assess whether said change in state that has taken place results or said intended change in state would result in a change in said availability of said system function" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65;

col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 3, Perkoltz discloses the claimed "recording a respective current functional state of a system component for said system component in the database" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64); "recording by said database for each system component whether said component contributes to said availability of a system function monitored for availability, and if so for which system function or system functions said component contributes to said availability"; and "assessing when a change in a state of a component of said system has taken place or is intended using data stored in said database for other system components to assess whether said availability of a system function monitored for availability changes or would change as a result of such a change" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 4, Perkoltz discloses the claimed "marking using a stipulation regarding which system function is monitored for availability, among components of said system which are

mapped in a database, those components which are necessary for said availability of said system function" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64); and "marking in addition a respective state of said components of said system which are mapped in the database for said components"; and "assessing when a change in a component state has taken place or indented whether said change results or would result in a change in availability of said system function" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 5, Perkoltz discloses the claimed "storing by said database stores for each system function regarded as being relevant to availability information which describes conditions under which said availability of a system function is to be assessed as existing or no longer existing" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 6, Perkoltz discloses the claimed "a database; and system components wherein, when a change in a state of one of said components of said computer system has taken place or is intended, said computer system assessing, using information stored in said database, whether

said change in state changes or would change an availability of a system function, said database, for this purpose, indicating for each data map for a component whether a mapped component contributes to said availability of a system function, and, if so, to which system function or system functions contribute to said availability of a system function" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 7, Perkoltz discloses the claimed "wherein said availability monitoring component additionally makes said assessment based on particular conditions which are stored in said database for each system function regarded as being relevant to availability" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 8, Perkoltz discloses the claimed "a stipulator that stipulates for said computer system which system function is to be monitored for availability; a component map which, for a component, records in a database whether said component is at all necessary for a system function monitored for availability and for which system function it is necessary and which also records for said component its respective functional state" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50;

col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64); and "an assessor which uses said data recorded in said database made in a component map to assess whether a change in a state of a component which has taken place or is intended to take place has resulted or would result in a change in an availability of said system function" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 9, Perkoltz discloses the claimed "storing, by said database stores, for each system function regarded as being relevant to availability, information which describes conditions under which said availability of a system function is to be assessed as existing or no longer existing" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65; col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

As to claim 10, Perkoltz discloses the claimed "storing, by said database stores, for each system function regarded as being relevant to availability, information which describes conditions under which said availability of a system function is to be assessed as existing or no longer existing" (col.2, lines 42-45; col.5, lines 50-60; col.6, lines 48-54; col.9, lines 42-67; col.11, lines 50-65;

col.12, lines 42-60; col.13, lines 35-50; col.27, lines 45-65; col.37, lines 35-55; col.38, lines 15-45; col.41, lines 15-32; col.47, lines 32-60; col.48, lines 23-30; col.49, lines 45-64).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jean M Corrielus
Primary Examiner
Art Unit 2162

February 25, 2005